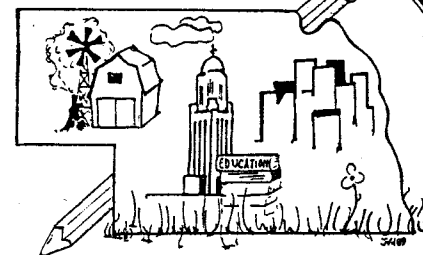


The Nebraska Observer

Vol 4, No. 5-May 24, 1989



formerly WHAMO

Some Omaha Blacks Frustrated by Police Excesses

by Frances Mendenhall

How will police-community relations evolve as the city takes more aggressive steps to address the problems of drugs and gang violence?

Many people in the black community are concerned that current ways of dealing with young people on the streets are not only bringing about a decrease in respect for the system, but are actually drawing the lines for a future battle.

Officer Terry Thompson, former president of the Midwest Guardians, an organization of black officers, believes that those black officers who are still progressive are not being heard enough, while others, who have forgotten where they came from, seem to be given too much credence.

"If you went to a police in-service," he commented, "you'd see a lack of respect for the citizens we serve. It's us against them--and this is more of a problem in the black

community where racial lines add to the problem."

Last February, black reporter Ben Gray of Channel 7 aired an interview with Carl Washington on his program Kaleidoscope. Washington is known in the black community for his work with teenage boys through his boxing club. In the interview, Washington mentioned an often-described scene in north Omaha, that two certain police officers, known in the community as "Big Head" and "Dirty Red," had taken money and other things from young people without a warrant or an arrest. The station later retracted the allegation, saying that they had no personal knowledge of the event(s) described. Gray, however, never retracted the story, nor did Washington, and people in the community continue to tell similar stories.

This reporter interviewed a 16-year-old who told of being frisked by police in an encounter three or four months ago at the Hilltop Projects. "The others ran, but me and this other dude stayed," he said. "They made us lie down on the ground and Dirty Red took \$1200 out of my pocket. I said he couldn't do that, but he said 'What you gonna do about it? I know you ain't got no job.' I was 15 at the time and no one in my family was working. Big Head is Dirty Red's partner, and they are always messing with people and harassing them for no reason."

The young man's companion was arrested, on an unnamed charge, but he was not. According to his story, the police also took \$300 from his companion. Also, he said that he saw the police punch his companion in the mouth while he was handcuffed, drawing blood.

The young man who told this story was not willing to give his name, nor did he report the incident to the officers' superiors. "There had been people in the area caught with drugs," he said, "and I couldn't

afford to report it."

Tom Riley is Chief Deputy Public Defender for Douglas County. His observations of courtroom proceedings have given him an understanding of the young people's mistrust of authority. "When we get into a situation where an individual is charged with resisting arrest, disorderly conduct, etc., it's impossible to win because if it's the defendant's word against the police, 99 percent of the time the court will accept the officer's word."

Black attorney Jesse Irvin has had similar experiences in defending clients. "I wish you could hear some of the things police officers accuse black folks of saying or doing when they make an arrest. It's always the same stereotypical language that many of us simply don't use."

Another youth, Easy Perkins, who lived at 1709 California #8 at the time of the story, was willing to go on the record. "They searched my house and me (2 1/2 months ago) without a warrant." Perkins said the officers involved were Bogdanoff and another, whose name we could not confirm. Perkins also complained about being stopped in his car by the same two officers and a third one named Kyle. "My driver's license is ok,"

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Mandated Douglas County District Elections Could Alter Board Makeup

by Frances Mendenhall

Senator Ernie Chambers' attempt to get district elections for Douglas County, LB 588, has a good chance of becoming law this year. As we go to press, LB 588 has advanced from Select File, 25-17, passed Final Reading 26-17, and now awaits the

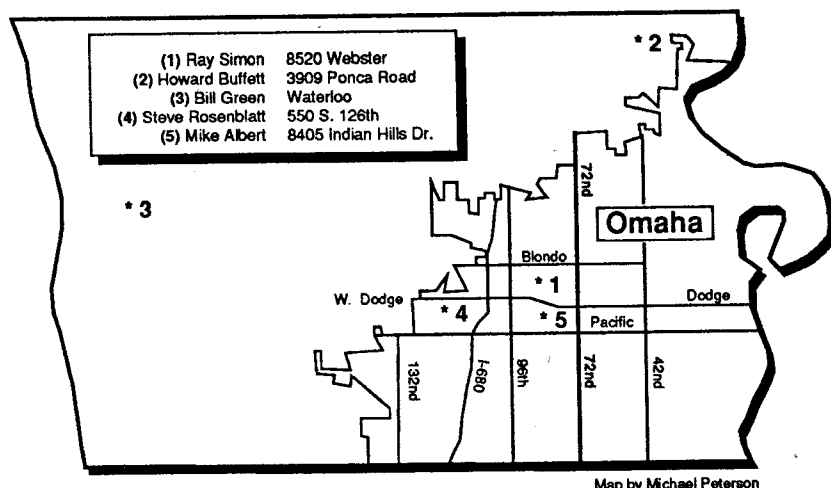
eligible to run, so if any of the three who will have been elected in 1990 are eligible, they probably will consider running.

The big question: how will the lines be drawn?

Margaret Jurgensen, Chief Deputy Election Commissioner, said "I would anticipate

that the lines drawn would closely approximate the lines that now define city council districts, except that the western boundaries would be pushed

Douglas County Commissioners Now Elected at Large



Map by Michael Peterson

governor's signature. The bill would require the Douglas County Board to have seven members, as opposed to five, and that they be elected by district rather than at large.

Board members currently serving would complete their terms; members from the four odd-numbered districts would be elected in 1992, and members from the three even-numbered in 1994. The boundaries for the districts would be determined by the County Board after the 1990 census.

In 1992, incumbents Ray Simon and Howard Buffett will be eligible to run if they live in an even-numbered district at that time. All four seats will be open, and anyone who lives in even-numbered districts will be

farther west. I would also expect to see such resources as the census data, MAPA (Metro Omaha Planning Authority), city planning department, used as well as consideration of what's already there."

No female or minority member has ever served on the Douglas County Board. There are now no Omaha County Board members who live east of 72nd Street.

According to Jack Mills of the Nebraska Association of County Officials, Douglas County will be the first county in Nebraska to have seven commissioners. There are now 21 counties that elect commissioners at large. Twenty-seven have a supervisor form and all but two are elected by district.

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Endorsements, Coverage Gave Morgan Edge

by Richard Shugrue

For a politician, there is a sure and certain comfort in a professional tracking poll. He or she can wake up each day with the overnight figures in hand confident that, absent a calamity, the election is over.

The vastly better-organized, better-financed Morgan campaign knew that the race was over long before the more than 100,000 voters filled in their ovals.

The Boyle people knew instinctively in April that a May victory would come hard, if at all. Boyle's primary vote seemed stunning--first in the field, well over a quarter of the total ballots cast--but the pros knew that if he didn't reach 35 percent of the April vote he was in trouble.

By mid-April Morgan's cadre of professionals began chipping away both at the primary vote which had gone to others and at the morale in the Boyle forces.

"Three-Percent Cleary"--as his cynical enemies called him that April Wednesday morning, clucking at his ignominious loss--was in line to endorse Morgan. And Fred Conley, the City Council president, who was still wounded by Boyle's beating him in his own district. What a coup to have the first (and only) black person elected to the council side with Morgan--and a Democrat, of course!

Calinger lined up, finally, when the money to wage a write-in didn't appear and the reality of a big primary debt caught up with him.

And the coup de grace: Steve McCollister. This man who was so tranquil, so emotionless throughout the primary finally let it out back in April: an angry bitterness toward Morgan, the fellow who had gone AWOL from the GOP to dance with Democrats; but on the May election-eve Steve held a press conference in his yard and embraced his former enemy.

Not that endorsements work political magic. True, the score was Boyle 0, Morgan 4. Oh, Boyle received a rally-night send-off from Gene Leahy, but that wasn't quite the

same as a kiss from a guy you'd just been duking it out with. Leahy was to Boyle what Al Veys was to Morgan.

The wags said P.J. and Annie Morgan went to Washington not to see President Bush but to stand beside Bob Kerrey and neutralize the "hero" speech from the Jefferson-Jackson dinner.

The Wadman decision came down from the State Supreme Court. It seemed to vindicate Boyle for firing the chief. But that turned out to be a legal technicality. In truth, the decision gave the World-Herald the opportunity to rehash the entire scenario of Boyle vs. the Police Division.

Lest anyone forgot that consumption of demon rum was involved in Boyle's ouster in January 1987, the reader was reminded that one of Mayor Mike's first encounters with the cops came on the night he entered the Police Headquarters after having consumed a few beers. The readers were reminded that Boyle kept a refrigerator stocked with beer in the mayor's office.

In the recall, Boyle's strident defense of his family had been a central issue. Whether it was over his brother-in-law in the tavern business or his kids who were acting like kids or his own fiats regarding the giving of traffic tickets to his relatives, he had appeared in the winter of 1986-87 to be arrogant and officious.

Now, in the spring of 1989, Boyle admitted that spirits had, indeed, caused him problems and revealed that he had been on the wagon for months and months.

Wadman's attorney filed a document with the Supreme Court charging that the

former mayor's firing of the chief was the act of an alcohol-deranged person.

Boyle announced that he was going to attend his first Alcoholics Anonymous meeting, somehow losing sight of the fact that the organization's second name is "Anonymous."

And, in the most remarkable piece of journalism of the entire campaign, C. David Kotok of the Herald published an interview with a psychiatrist in Minnesota who, on the basis of rank hearsay, including some newspaper clippings, diagnosed Boyle and pronounced him unfit to serve as mayor.

It was only later that the paper published another story quoting other professionals who expressed a wholly different view of Boyle's rehabilitation and ability to serve.

The Herald endorsed Morgan. The Metropolitan kissed Boyle.

The votes were cast: The Herald's map told one important version of the story, just as it had in the recall. West Omaha went for Morgan, the eastern half went for the former mayor. But they vote with greater intensity out west: Morgan won three-to-two there, where 56 percent of the registered voters turned out.

The top GOP precincts all went for Democratic neighborhoods stayed loyal to Boyle.

Did the endorsements help? All 42 precincts which had gone for McCollister went for Morgan, and 15 of the 26 Calinger precincts went for P.J., as well.

But whether this was because of an endorsement or an anti-Boyle sentiment will never be known.

The grin on P.J. Morgan's face resembled the finely-polished grille of a Rolls Royce.

The resigned, wistful visage of Mike Boyle had none of the desperate bitterness which had seemed to be on his face in early 1987.

There's hardly a political race in which the loser doesn't muse, "If only I had...."

In this race, a guy once pronounced dead came back to life. Even the Herald pontificated that Boyle, hmmm, maybe, perhaps, has a political future.

And a decent and enthusiastic business tycoon got the chance to lead this old river city toward greatness.

It was not--as some thought--the end of the faded Irish Democratic machine. Heaven knows how long that's been gone! Ask Pinky Knowles, or the spectre of the late Jack Cavanaugh, who couldn't even get his own party's nomination for Congress 21 years ago (or Pat Cooney four years later who did get the nomination and was clobbered nearly two-to-one).

It was Omaha's first high-tech mayoral race, auguring a future in which out-of-town pros, daily polls, targeted mailings and all the other trappings of Senate and even House races come down to local government.

And it was not without its ironies. Picture this: One wizened, stubble-faced political panjandrum, a Luckystuck to his lip, a shot-and-a-beer perched in front of him on the tacky bar, snarling, "Well, at least, thank God, we didn't get a mayor with relatives in the tavern business!"

Observer Deadlines

The next issue of the Nebraska Observer will come out June 28. We must receive your story ideas by June 13.

Copy is due June 20. Story ideas for the July 26 issue are due July 11. Copy is due July 18.

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LB 84 May Hinder, Not Help Property Tax Reform

by Donald W. Macke

The author is a senior partner in Economic Research Associates of Lincoln.

About LB 84

The title of LB 84 is the "Property Tax Relief Act" and this pending legislation is touted by its Legislative sponsors and Governor Orr as a meaningful start down the road to serious property tax relief.

LB 84, with a price tag of \$98.1 million, represents about one-third of the proposed new spending by the Legislature and the Governor, equalling nearly \$330.0 million. LB 84 is the cornerstone of a possibly historic radical jump in State spending. This year's state budget totals about \$975.2 million. If all pending spending proposals are approved, Nebraska's spending next year would jump by one-third to \$1.3 billion.

If LB 84 is enacted in its present form, the Nebraska Department of Revenue estimates that the beneficiaries of this \$98.1 million one time tax cut are as follows:

Agricultural Land	26.9%
Homes	35.1%
Business Personal Property	6.1%
Landlords of Renters	10.4%
Commercial & Industrial	16.3%
Railroads & Utilities	5.2%

How Does LB 84 Measure Up?

There is no question that well-intentioned members of the Legislature have been seeking meaningful property tax relief and reform with little success due to Constitutional and special-interest barriers. However, LB 84 falls short in becoming the first meaningful step towards property tax relief or reform.

State and local tax payments in Nebraska as a percent of personal income has climbed steeply for three straight years. If LB 84 is being offered to restore faith with these taxpayers, it is the wrong vehicle for tax relief. The most direct and equitable route to reduce the tax increases of the previous three years would be through a one cent cut in the state sales tax rate (i.e., providing \$50 million in immediate tax savings) and reducing the personal income tax rates for middle-income Nebraskans by another \$50 million.

If the goal of LB 84 is to provide property tax relief and reform, it again falls short of this goal. There is no question that Nebraska depends too heavily on property taxes. The Nebraska Tax Research Council estimates that Nebraska's overall property tax burden is the 13th highest in the nation. What is even more troubling is the concentration of this burden on certain segments of the property tax base—mainly home owners and renters in the more rural and agricultural dependent communities within Ne-

braska. Because these communities have no other tax bases, their mill levies are higher.

LB 84, in its attempt to provide \$20 to \$30 million in relief to rural homeowners and renters, is also providing \$60 to \$70 million in relief to railroads, utilities, and other groups not necessarily in need of relief, including certain urban, and wealthy home owners.

LB 84 is likely to hinder, not initiate, the necessary reform in Nebraska's tax system. Every Nebraskan should share equally in the services of government irrespective of where he/she lives and how wealthy his/her community. In a state with large regions of lightly populated, single-industry-depend-



ent economies which are often subjected to major economic downturns, the need for tax burden equalization must be confronted. LB 84 does not address this issue.

A Few More Minor Problems

LB 84, besides being poorly defined in terms of its goals, also suffers from a wide ranging set of other problems. Three are worth noting.

First, according to the U.S. Census Bureau, 30 to 40 percent of all Nebraska households are renters. LB 84, while providing tax relief to landlords, does not ensure that this tax cut will be shared with renters. If past experience is used as a guide, the \$10 million in tax savings to be realized by landlords will be pocketed as profits and not passed on to Nebraska's nearly 200,000 renter households.

Second, Nebraska's home owners stand to receive \$30 to \$35 million in tax savings from LB 84. However, since state and local property taxes are tax deductible at the federal level, preliminary estimates suggest that roughly \$15 million of this tax relief will be passed through to the federal government.

Finally, LB 84 does not provide for future property tax relief. As now proposed, it is a one-time tax cut. Some senators, such as Senator Dave Landis of Lincoln, argue that next year the Legislature could raise taxes on corporations to sustain the relief. What are the chances of that happening?

Meaningful Tax Reform Options

The Legislature, through the Syracuse Tax Study, several years ago embraced the idea of strengthening Nebraska's basically sound tax system. Since the completion of

this guide to tax reform, the state has eroded the progressivity of the personal income tax system, continued to reduce corporate tax liabilities, and now is prepared to enter into questionable short-term property tax relief. The time has come for all interested parties to open the dusty volumes of the Syracuse Tax Study and reintroduce themselves to the principles of good tax policy.

Constitutional barriers will most likely continue to prevent property tax relief and reform for those most in need. Furthermore, the State cannot afford to cut all property taxpayers' burdens without the risk of raising other taxes.

As has been the case for years, the more direct and effective options available to the

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How Not to Write a Farm Bill

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by Annette Higby

Remember the good old days when the farm bill was written in Washington? Committees held hearings? Farmers wrote letters? There was public debate? Well, a piece of the 1990 farm bill was written and passed in Geneva in April at the Uruguay round of the General Agreement on Tariffs and Trade (GATT). The hearings were held afterwards.

The "Mid-Term Agreement," also known as the "Dunkel Plan," provides both a short- and long-term framework and timetable for achieving "substantial progressive reductions in agricultural support and protections," over an as-yet-to-be-agreed-upon period of time.

It is the position of Carla Hills, the new U.S. Trade Representative, that "substantial progressive reductions" in support and protection means eventually getting to zero. Europe has a significantly different interpretation, however.

GATT participants have until December of 1989 to submit detailed proposals for achieving these long-term reductions. Those proposals will include: a standardized means of measuring government support to agriculture; decoupling income support from agricultural production and other ways to adapt support and protection, as well as a means of providing special and differential treatment for developing countries. Not later than December of 1990, participants hope

to come to an agreement on a long term reform program.

In the short-term (1989), participants agreed to keep import restrictions and support levels at or below 1988 levels. As for 1990, the participants expressed an intention to reduce support and protection levels and agreed to provide specifics on those reductions by October of 1989, suggesting that it will be the U.S. Trade Representative rather than the U.S. Congress who will get first crack at setting the parameters of the 1990 farm bill.

While the agreement with respect to short-term measures is too vague to tell whether it will require a reduction in export subsidies, target prices or loan rates, the specifics submitted in October won't be ambiguous. They won't be written by Congress either.

In her testimony before the Trade Subcommittee of the House Ways and Means Committee, Carla Hills made repeated references to consultations with Congress, as well as private advisory committees, including an Agricultural Policy Advisory Committee with whom she had just met. The Committee is made up of commodity groups, processors and agri-business interests including Cargill, Continental Grain, CPC International (Best Foods) and Archer Daniels Midland. Missing are the general farm organizations (except for the Farm Bureau) which represent small- and medium-size family farm interests. Is this any way to write a farm bill?

Compact Director Deflects N-Waste Questions

by Lynn Moorer

Receiving a warmer welcome than he had expected, Compact executive director Ray Peery visited Nuckolls County May 20 for a meeting of the low-level radioactive waste site local monitoring committee.

The Atlanta-based Compact director was questioned for more than three intense hours before an audience of 250 at the Nelson High School. Frequently objecting to the meeting format, questions posed, and persons asking the questions, Peery, visibly shaking, threatened to walk out of the meeting several times, saying, "I'm not going to subject myself to this."

Peery particularly objected to relentless questioning by Hugh Kaufman of Washington, D.C., EPA hazardous waste division employee who is the town of Nora's representative on the committee. The Atlanta attorney, who acts as general counsel for the Compact, accused Kaufman of grandstanding, periodically refusing to answer questions posed by "that outsider."

Peery also threatened this reporter, muttering, "You won't get away with this." Asked to clarify his statement, he refused to comment.

Peery told Susan Williams of rural Nora that transportation, amount of waste generated, and environmental considerations also contributed to Nebraska being chosen to host the five-state compact dump.

However, under questioning by Williams, Peery said Louisiana currently pro-

duces the most waste and agreed that Nebraska, the northernmost state of the Compact, is not centrally located, thus requiring longer transportation routes. He was pressed to explain how Nebraska could be the most



Photo by Brenda Smith
Compact Executive Director Ray Peery objects to intense questioning at Nuckolls county's May 20 local monitoring committee meeting. "I'm tired of being badgered."

geologically suited when, according to Williams, "We have all this life...food, meat, people. We are the breadbasket of the United States...and have an impact on the world. Doesn't life have anything to do with this process?" Peery replied that each state has geological factors which its residents con-

sider important so the factors must be weighed against each other.

Committee vice-chairman Mick Karmazin of rural Lawrence wondered, "Why can't they tell us straight out why Nebraska was chosen?"

Peery said that he is accountable only to the Compact Commission. "I serve them and their interests, which may not be in the interest of Nebraska. The Commission's interest at this point is that Nebraska is the proper site."

Responding to a request by Kaufman to provide the committee with the environmental study explaining the selection of Nuckolls, Boyd, and Nemaha counties, Peery told Kaufman, "It's not my job to work for you."

The compact executive director said the compact is "unique and has a great deal of power in some ways" although "some things are better left to the state: including licensing authority for the facility. He said that if a conflict exists between compact law and state law, compact law rules.

Under Kaufman's questioning, Peery said he operates under no conflict of interest or Freedom of Information requirements.

Peery refused to disclose his employment record and sources of income. He also declined to take an oath before testifying, saying, "I don't need to." Edd Epley of rural Nora, Co-Chairman of Concerned Citizens of Nebraska, Nuckolls Co. Chapter, com-

mented, "It makes you wonder if there's something to hide."

Peery said he helped draw up the contract between the compact and US Ecology but declined to discuss the 20 percent rate of return guaranteed to the developer (see "In the Long Run," elsewhere in this publication) because "I'm not an economist."

He was also asked to explain his involvement in an environmental impact study for the proposed site. He said that he has discussed "whether a study is necessary" with DEC attorney Judy Lange but assured the audience that, "There will be an environmental impact study."

Responding to an inquiry by Committee chairman Gary Tordrup of rural Superior when the Compact office would be moved to Nebraska, Peery said it would be relocated from Atlanta once construction in Nebraska began. "Until then there are too many uncertainties," he said.

Receiving loud applause, Susan Williams seemed to crystalize audience sentiment when she told Peery, "I'm serving you notice...that when all is said and done, you will realize that the government is the people. You are accountable to us and you will answer to us."

The committee voted to invite to its next meeting, tentatively scheduled for June 17, Dennis Grams and Jay Ringenberg of the Department of Environmental Control, Mike Steffensmeier, a former DEC employee, and Norm Thorson, advisor to Gov. Orr.

Scientist Deplores Toxic Ash Reclassification

Citizens expressed frustration, anger, and disbelief as nine state Environmental Control Council members, 437 miles away from the targeted area, cast their votes at an Omaha meeting May 18 to allow Waste-Tech, Inc. to bury delisted ash generated from its proposed hazardous waste incinerator in a new "monofill" near Kimball. By allowing the ash from more than 132 hazardous constituents to be reclassified as non-hazardous, the Nebraska appointed officials opened the door at which the Colorado firm had been knocking for nine months. Without a favorable decision at the Omaha hearing, the Amoco-owned company officials had said they would have to "rethink" the project because they were not interested in operating a hazardous waste landfill. Regulations governing hazardous waste burial are more stringent than regulations for solid wastes (garbage and trash), including stiffer criminal penalties.

Following is a summary of an interview with the main technical witness for incinerator opponents, Dr. Paul Connett, who is Assistant Professor of Chemistry at St.

Lawrence University in Canton, New York. Dr. Connett has an undergraduate degree from Cambridge University and a PhD in Chemistry from Dartmouth College.

"Amazing," was what Dr. Paul Connett called the council's adoption of regulatory amendments providing that only ash tested and found nondangerous could be buried. "From what science I was able to look at, it is all bogus," Connett said.

He told the council members that the test data Waste-Tech presented were "not worth the paper they are printed on" because:

1) ash tested does not represent the ash that will be produced at the proposed facility which will be produced by a mixture of waste streams. Data used by the company was one limited sample from Waste-Tech's Lake Charles, Louisiana unit which has a single waste stream;

2) test data using different air pollution collection devices (scrubbers) were compared, therefore as useful as comparing apples and oranges, he said, because they produce different kinds of ash. Nebraska's proposed facility will use lime in its dry scrubber, thereby producing a particulate matte, Connett said, which is extremely alkaline.

Invited to testify at the hearing by Western Nebraska Resources Council, Connett urged thorough, independent review" and "close scrutiny" of test burn data, otherwise you'll end up with hazardous waste spewing out over the countryside," Connett said. The issue is not solubility (of the ash). One must consider all the pathways by which this material can reach humans and the environment."

Citizens opposing the facility raised many of the same concerns enunciated at the February meeting at which council members decided to delay a decision until more information could be gathered and resolution of issues attempted. Questioning the Department of Environmental Control's expertise regulating its first hazardous waste incinerator, opponents denied Waste-Tech and DEC's assertions that community acceptance had been gained and called for postponement of a delisting decision.

Connett, national coordinator for a citizens' group coalition called Work on Waste, USA, said he was appalled at the process which led to the delisting decision. "I was shocked that an issue that cried out for clear, scientific analysis was being de-

cided essentially on the testimony of a company that stands to gain a lot of money and on public relations," he said. "The whole (DEC) just taking all the numbers from the company without verification is unbelievable. Any other regulatory body would not have just taken (Waste-Tech's) word for it that all the (seismograph) holes had been plugged. The very fact that they treated PR spokesmen as the conduit for vital information on the project was sickening."

Connett expressed surprise that the council did not insist that a representative from Amoco be present and "establish that Amoco really has responsibility for (Waste-Tech)." DEC attorney Annette Kovar said Amoco would bear liability if Waste-Tech is not able to clean up contamination.

He also criticized Kovar's characterization of EPA's Superfund program and its role in cleaning up any contamination of Waste-Tech's operation. "That was the sick joke of the whole afternoon...leading citizens to believe that Superfund holds much hope for Nebraska. They've identified 15,000 sites in the United States (for cleanup) and they've actually cleaned up six. I don't think

Continued on next page

Scant Nebraska Laws Attract Waste Burners

by Colleen Aagesen

It is less than one year since the grisly scene of used needles and syringes washed up on the Atlantic beaches and opened American eyes to yet another waste-disposal problem. For years hospitals have either burned their medical wastes (which include needles, blood specimens, excretions, bandages, disemboweled organs and disposable plastics) or sent them to a landfill.

But the crisis in landfills—with many reaching capacity and new ones difficult to site—has made incineration an increasingly preferred method of medical-waste disposal.

Enter the private sector.

Biowaste Services of Minneapolis would like to build two incinerators in the foreign trade zone near Omaha's Eppley Airfield within the year. Midlands Environmental Services, an Omaha firm now in the application process, is also anticipating building a medical waste incinerator. The waste-management giant Browning-Ferris Industries (BFI), already hauling medical waste from Lincoln to one of its incinerators in Fargo, North Dakota, is considering a request for a permit to construct its own incinerator in the Omaha-Lincoln area.

"This commercial incinerator activity is a response to Nebraska's regulatory vacuum," said Dorothy Lanphier, an environmental activist fighting the Biowaste facility without adequate laws and standards. "They are taking advantage of what we don't have—laws and rules governing medical waste emissions."

While incineration decreases the volume of medical waste by about 90 percent, reducing, for example, both "sharps" such as needles and "red bags" (infectious waste wrapped in double layers of red plastic) to ashes, incineration begets another form of waste: emissions. It is the regulation of these emissions—or the lack thereof—that is a major issue in the burn-or-bury debate.

Glenn Dively, Engineer for Air Quality for the Department of Environmental Control (DEC), confirms that medical-waste emissions are not addressed in Nebraska regulations. Emission controls governing medical wastes are identical to those governing general industry. Dively said DEC, guided by the federal Clean Air Act, measures sulphur dioxide, carbon monoxide, lead, ozone, particulates and PM 10s (heavy metal and cancer-causing organic compounds which can be carried into the most sensitive parts of the lung). Hydrochloric acids and dioxins are not measured.

For the monitored materials, however, no maximum allowable limits exist. Therefore, there are no emission standards—either state or federal—by which to evaluate health and environmental effects. Lanphier said the EPA—after testing three medical-waste incinerators last year—concluded that performance standards need to be formu-

lated based upon more data.

Some states have begun to set their own regulations. California and six other states define medical waste as hazardous waste. Other states are withholding action on increased use of medical waste incinerators until more EPA data are collected. Lanphier said Denver and Des Moines recently rejected commercial medical-waste facilities because of unknowns about medical-waste emissions.

Tad Gallion, managing partner of Environmental Health Systems (EHS) whose medical-waste incinerator has operated in Lincoln since August of 1988, connects Nebraska's few regulations to BFIs interest in locating an incinerator in the state. "They began to express an interest after my partner and I were featured in a trade journal as a new company operating in a state with few regulations," he said.

Six Omaha hospitals possess on-site incinerators. Tom Baker, Douglas County Supervisor of Sanitary Engineering, said that while larger hospitals generally have their own incinerators, they may be persuaded to send their medical waste to a commercial facility because of cost factors. As regulations begin to be enacted on state and federal levels, Baker said, the cost of building a new generation of incinerators or maintaining old ones may cost hundreds of thousands of dollars.

Terry Stewart, President of Biowaste Services, who said the company's "primary (business) focus is Nebraska and western Iowa," said a \$250,000 scrubber will be part of the proposed facility. "We'll actually be emitting less than the hospital incinerators which don't have scrubbers," Stewart said. Biowaste's original plan did not include a scrubber but citizen concerns—including a request for a hearing on the proposal—prompted incorporation of the device in the plan, said Stewart.

Dively said DEC will require a scrubber for the Biowaste facility. "We will write BACT (Best Available Controlled Technology) into their permit," he said. According to Title 129 of Nebraska's Air Pollution Control Rules and Regulations, BACT is:

"An emission, limitation or a design equipment work practice operation standard or combination thereof...to be achievable by a source, on a case-by-case basis, taking into account energy, public health, environmental and economic impacts and other costs." Lanphier thinks BACT is too broad. "Since EPA is just beginning to gather information to develop standards, the best available standard currently can be next to nothing." h)ker said smoke is monitored. "Douglas County has people who measure smoke" by testing its opacity or ability to reflect light. Lanphier said that is not enough. She said no regulations exist to prevent night burning, making it impossible to measure smoke. She also notes that DEC

materials state that PM 10s, when combined with sulphur dioxide, can increase incidence and severity of respiratory diseases.

Ted Carter, principal of Sherman Elementary School located less than one mile from the proposed Biowaste site, has two sons with reactive asthma. He worries about what Biowaste's emissions will contain. "My sons will go two months without an attack and suddenly a cigarette will trigger an attack. We're going to fight this or we'll have doctor bills and we won't know why."

Several business in the industrial park near Biowaste's proposed site also oppose the facility. Nogg Brothers, a paper products manufacturer, is worried that its porous products, used in food packaging, could absorb contaminants, according to Dively. He said objections by Nogg, Lozier (manufacturer of store fixtures), John Day Co., and Koley Medical combined with residential complaints persuaded Biowaste to write a scrubber into its proposal.

Richard Clark, Lincoln-Lancaster County Health Department's Solid Waste Supervisor, said that despite a legitimate

concern about emissions, incineration is currently the best alternative for medical-waste disposal. He said that while the sterilization (required for infectious waste disposal in landfills) does not produce emissions, neither does it always kill hardy tetanus and hepatitis viruses. "There are emissions," said Baker, "but you have to put it in perspective. I'm extremely concerned about the greenhouse effect right now and automobile emissions are my real concern."

Thus, the burn-or-bury double debate may pose a choice between cancer or hepatitis.

As residents and neighbors mobilize for what they perceive as a critical health issue, attempting to shield their neighborhood from an incinerator, many issues remain literally in the air. A DEC hearing on the Biowaste facility is yet to be scheduled. The small local firm and the giant BFI wait in the wings for their turn. Regulations governing Nebraska's air quality remain as wispy as the wind.

Next month—Part 2: Climate of Business Opportunity.

Toxic Ash Reclassification

Continued from previous page

Kimball is going to get really tremendous attention."

Connett said that the delisting decision resulted from "PR science." Instead of people with scientific and technical credentials promoting a project which is environmentally sound, he said, "this was done completely with salesmen."

"The company says the three most important things are: community acceptance—and it was very clear by the time they got to the end of the public testimony that they didn't have it; the governor's embrace; and a speedy decision making process." Connett said, "Whether or not it's environmentally sound is an afterthought."

DEC Director Dennis Grams and Hazardous Waste Section Supervisor Ken Kolthoff both said they approved of the delisting.

Connett said policy decisions (like delisting) in a technological society must "make the distinction between being clever and being wise. It's the difference between small questions and large questions. Every time we put citizens down at these public hearings and give them 45 minutes to talk after the department has been talking to Waste-Tech for months and months, and treat them in this condescending fashion, we stamp on wisdom."

Waste-Tech and DEC are a part of what Connett calls the "regulatory industrial complex," working together to create state policy which threatens the environment its citizenry. To correct the problem, he suggested a "Monty Python section" be created

at DEC. "They should have a special office for the Monty Python team or the equivalent and when these kinds of decisions and policies are being considered, they should pass it to the Monty Python team before they send it to the public. If they hear enormous laughter coming from the room, they would know they've made a mistake."

Black Youths, Police

Continued from page 1

but they acted as if it had been suspended, pulled me over, searched my car, then gave me a ticket and towed it. I have spent \$920 to get it back." Perkins has gotten the help of a lawyer to resolve the problem.

This spring, a young black man was forced to leave Parkfair Mall by two white police officers who told him "Some people in the stores don't want your business." The young man left, but returned by another door to ask the officers who it was that didn't want his business. He was arrested (and later acquitted) for trespassing. The young man is involved in another complaint about the incident and declined to use his name.

Deputy Chief of Police Gary Crinklow represented the police department's point of view: complaints of violations of appropriate procedures can and should be handled by going primarily through the channels at the department. But many who are complaining are not willing to go on record with the police. Said Crinklow, "They are still free to go to the Human Relations department, but it would be easier if they'd come down here. If they choose not to come in we can't take any action."

Browning-Ferris Seeks 1.5 Mil from Douglas County

by Frances Mendenhall

Browning-Ferris Industries of Nebraska, BFIN, believes that Douglas County owes them at least \$1,534,624. The claim the giant waste disposal corporation made in its May 8, 1989 letter to the Douglas County Commissioners, arises from what it says are underreported tonnage by the County at the current County landfill on State Street.

BFIN operates the current landfill, scheduled to be replaced by another landfill for which Waste Management has been awarded the contract. The new landfill is to be placed near the Washington County line just north of Elk City. After Waste Management was awarded the contract in December, BFIN expressed disappointment that they did not get the bid, and sought a permit from the Department of Environmental Control to build a second landfill within five miles of the first.

The current landfill which was supposed to be closed this month has been given an emergency permit for expansion for 120 days from the Department of Environmental Control allowing it to expand vertically 10 to 12 feet, according to Richard Johnson, district manager of the landfill.

According to the letter sent to members of the Douglas County Board of Commissioners, its Chief Administrative Officer, and the Douglas County Clerk, BFIN's claim against Douglas County arose in November of 1988 when the company noticed that the County had recorded and reimbursed it for much less tonnage than the previous month and prior comparable periods. According to the letter, "the County responded the October tonnage was underreported by 3,978.75 tons..." The letter further describes an "audit" performed by Touche, Ross & Co., "to review all underreported tonnage and the

overall clerical accuracy of the County's billing for tonnage at the Sanitary Landfill." "According to Touche Ross," the letter said, "the aggregate amount due and owing BFIN as a result of total underreported tonnage was \$607,080.73."

BFIN believes there are an additional 236,000 tons underreported for the period in addition to the 147,085.39 reported by Touche Ross. Additionally, BFIN believes a similar pattern existed before 1985, to the beginning of their contract in 1979, but they cannot document the amounts at this time because the appropriate records are in the possession of the County.

County Administrator Richard Shoetger said, "We couldn't come to an agreement (with BFIN) in discussions on four occasions, but beyond that I don't wish to comment in the face of pending litigation."

Browning Ferris was recently in the news

as a possible purchaser of majority stock in US Ecology, builder of the low level waste dump; when the stockholders meeting of American Ecology, the parent company, occurs in mid-June, the purchase will probably be approved. The company intends to play a larger role in Nebraska in non-nuclear waste disposal as well.

At present BFIN does some medical waste hauling in the Omaha-Lincoln area, hauling the refuse to Fargo, N.D.

Commenting on the company's attempt to get the permit for the second landfill in the Bennington area, company spokesman Tom Vandervoort said that the proposed new operation would handle waste from the six surrounding counties as well as the Omaha area. "The new landfill is in a competitive environment," he said, "and as federal regulations become stricter, many counties will not be able to run their own sanitary landfills."

Browning-Ferris: 'Squish Him Like a Bug'

Washington--"Squish him like a bug" was how a commercial rival wanted Joseph Kelley's business eliminated. In 1980, Kelley, a Burlington, Vt., trash collector, left Browning-Ferris Industries--a \$1.3 billion a year national power in waste disposal and on the Burlington scene for seven years--and formed his own firm, Kelco. Kelley invested his life savings, worked hard and within two years had 40 percent of Burlington's waste business.

He also had the ire of Browning-Ferris. It retaliated by setting prices below cost, a practice known as "low-balling." In Kelley's view, that was predatory pricing strategy equal to an antitrust violation. In 1984, he sued. A district court awarded him \$51,146 for two counts of compensatory damages and \$6 million in punitive damages. An appeals court upheld the verdict. On April 18, the Supreme Court, after years of declining to review punitive damage cases in civil suits, heard oral argument.

The size of the award aside, Browning-Ferris v. Kelco Disposal is momentous for another reason: 60 groups have filed friend of the court briefs. It has been called the most important case of its kind in years.

Included on the side of Browning-Ferris are the U.S. Chamber of Commerce, the National Association of Manufacturers, the Motor Vehicle Manufacturers Association, the Pharmaceutical Manufacturers Association and 10 media organizations, including NBC, Time, Dow Jones and the Washington Post. On Kelley's side are the Consumer Federation of America, the U.S. Public Interest Research Group, Consumers Union and the Association of Trial Lawyers of America.

Rising from the wastelands of Burling-

ton is the question of whether large punitive damages reflect the punishment of wrong or the wrong of punishment. Well-publicized punitive awards in recent years--\$25 million against Penthouse, \$10 million against Kerr-McGee in the Silkwood case--have created the impression that juries are reckless vigilantes raiding corporate deep pockets.

Lawyers for Browning-Ferris argue that the Eighth Amendment and its clause prohibiting excessive fines makes invalid the \$6 million award. The size of the sum, they claim, "is excessive under any objective measure--other than a single-minded, Robin Hood-like focus on the defendant's economic resources." In addition, the \$6 million in punitive damages is 117 times the actual damages. The lawyers spoke of "prejudice, provincialism and caprice" of juries that take "preposterous windfalls" from rich defendants.

Those arguments have weight, but they float off like ether into the air of unreality when put against the heavier fact that for punishment to be punishment it must be painful. Proportionally, Browning-Ferris was let off lightly. The \$6 million equals two days' revenue. The court of appeals that upheld the jury's award stated that the money amount to "Approximately 0.6 percent of (Browning-Ferris') net worth, and less than 5 percent of its net income, for FY 1986."

The court was right to uphold the jury's award. The \$6 million isn't excessive, even if the Eighth Amendment and its criminal sanctions against cruel and unusual punishment for human beings can be stretched to apply to civil cases against corporations. In closing argument to the jury, the lawyer for Joseph Kelley reasoned with basic mathematics: A \$6 million judgment against the

\$1.3 billion gross of Browning-Ferris is the equivalent of a fine of about \$100 for a person earning \$20,000. That's not much more than a traffic ticket.

What's truly excessive in punitive damage cases is the claim from much of corporate America that it is at the mercy of vindictive juries. It isn't. The woman who was awarded \$25 million from Penthouse lost in the appeal process. She never received a penny.

Kerr-McGee, in the Karen Silkwood case, had the jury's verdict reversed on appeal. The Silkwood heirs, after years of litigation, won only a pittance. Jerry Spence, the Wyoming trial lawyer who won the jury's verdict in both those cases, writes in "With Justice for None" that the reversals were by one vote: "How strange that we require juries to return unanimous verdicts but permit

the more learned judges to get by with a mere majority."

More than anyone, trial lawyers know the rarity of defeating both the might of corporate giants and the power held by higher courts that second-guess juries. The consumer and public-interest groups siding with Kelley researched data on punitive civil cases. A major study of Cases through federal courts were upheld out of 172 cases." In another study, the average award was \$137,350, but 87 percent of the awards were lower than the average, at \$8,800.

At stake in Browning-Ferris Kelco is the justness of an award that amounts to two days of a corporation's income. That isn't even a slap on the wrist. It's a wet noodle across the knuckles.

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Law and Order

Firing Wright Aide No Solution to Victim's Plight

by Colman McCarthy

Washington--Vigilantes who hounded John Mack out of his job in Congress didn't object to the ex-felon's having gone straight. It's that in 16 years he went straight to the top.

Mack, earning \$89,500 as the closest aid of House Speaker Jim Wright, began as a lowly \$9,000-a-year file clerk after serving 27 months in jail for hammering, knifing and leaving a Virginia woman for dead. The crime--sickeningly vicious--was in 1973, but for Reps. Pat Schroeder, Lynn Martin and Olympia Snowe, the punishment of 27 months imprisonment was sufficiently harsh.

The self-appointed appeals court of Schroeder, Martin and Snowe wanted retroactive justice. They pressured Wright to fire his assistant. Mack resigned instead. The congresswomen were roused, as were many others, by a Washington Post story in which Pamela Small, Mack's victim 16 years ago, told of her suffering since the crime. She went further, expressing bitter resentment that Mack rose so high: "He's got a very powerful, very important job now and he wouldn't have it if he hadn't tried to kill me...I can't believe the people of this country, if they knew about it, wouldn't think that's outrageous."

What wouldn't be outrageous? If Mack were now a dishwasher, or perhaps still slinging mail? Would it be doubly outrageous if he were pulling in \$170,000 a year? The enormous sympathy owed to Pamela Small for what she went and still goes through doesn't provide substance to her theories on criminal justice, which are those of an amateur penologist.

Her comment that "I would rather [Mack] still be in prison" is understandable and it finds an audience in those who believe--contrary to evidence--that America coddles its criminals. The National Prison Project of the American Civil Liberties Union reports that the average time served for U.S. prisoners is three years. In most European countries, the average sentence is six months. In Margaret Thatcher's England, it is one year. The imprisonment rate in the United States is 244 per 100,000 people. In Europe, only Northern Ireland is higher, with such countries as France, England, West Germany and Italy about one-fourth as high as the United States. Greater incidences of violent crime are less the cause for the disparities than U.S. failures to use alternative punishments, work release, community service and third-party custody programs.

Part of what's "outrageous" in John Mack's past is the perception that he got away with near-murder. He left Pamela Small for dead, went to the movies and did only 27 months in jail. If that's not coddling, it is asked, what is? The question ought to be directed at the court system of Virginia, not

a state known for turn-'em-loose judges or soft-on-crime parole boards. Jerome G. Miller of the national Center on Institutions and Alternatives points out that Mack received no special treatment by Virginia officials. A first-time offender, he serviced more than a fourth of his sentence, which was more than the average punishment given to other Virginia felons at the time.

By her statements that Mack was let off lightly for the crime he committed at 19, Pamela Small played to the same national frustrations about crime and punishment

exploited by George Bush's Willie Horton campaign. It didn't matter to Bush that furlough programs for murderers have a rehabilitative success rate far greater than those achieved by long prison sentences or that 99 percent of all prisoners will eventually be released from prison, furloughs or not. Such distinctions didn't matter, either, to the congresswomen wanted Mack ousted from his job with Wright, even if this appeared to be a case where rehabilitation worked.

A few questions need to be asked those who succeeded in bringing down Mack. Is he

allowed to try for a third chance, now that the second chance given him by Jim Wright proved offensive to so many? If there's a feeling that it was just and proper for Mack to have taken a direct hit last week, is it multiplied that his wife and children are hurt with him? Are the worthy goals of the victim's rights movement--from calling for restitution programs to having a voice in the sentencing process--enhanced when mob-rule vengeance is pushed?

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Racism Root of Drug and Gang Problems

by Ben Gray

Ben Gray is a photographer-producer for KETV.

The problems of gang violence and drugs have finally gotten the attention of people outside the black community as well as inside. As might be expected solutions being offered lack not only the perspective of the black community, but also a fundamental understanding of the forces at work that drive young people to gangs and drugs.

Gang membership and drug sales are problems in the white community as well as the black. While the Crips and the Bloods draw black membership, white kids make up the Skinheads and Hessians. But there is an important difference in the experience of black gang membership and white; the difference is the unavoidable effect of racism.

The problems of drugs and gangs will not be stopped until we make a serious effort to stop institutional racism. Young people will never be persuaded to go through the educational system when time and again they have seen that there are no career opportunities waiting. The lure of drug sales with the possibility of making several hundred dollars in an evening will always outweigh a minimum wage job frying hamburgers.

Still, we continue to hear the same tired solutions of more jails and more police officers. We have already jailed more of our citizens in than any other Western nation except for Northern Ireland and South Africa, only to see crime increase steadily in the Eighties. Isn't it time to try something else?

We citizens end up being the victims coming and going in the "build more jails" scenario. We are going to pay the taxes that

will end up building the jails as well as the taxes that will keep people in jail. In fact the average cost for incarcerating a person is \$30,000 per year. It only costs about \$17,000 per year to send a student to MIT. When we're done, 90 to 95 percent will get out in two to five years and, since we only talk rehabilitation but don't practice it, when they get out they'll make us the victims again.

When the additional police officers come on the force, somebody's going to have to pay for it--guess who. The city of Omaha is currently scrambling to pay for the current contract that police officers now have. No matter how many police officers you hire, they will not stop drugs and gangs; by the time an officer is called, the damage is done--all they do is clean up the mess and, if they're fortunate, make some arrests.

Our social service programs need to do a better job of helping kids grow up. Boys Club, Girls Club, and any publicly funded organization that offers programs for young people must be more closely scrutinized. Are the programs meaningful to the people they are trying to help? We can only answer this question by asking the young people.

We are going to have to get involved personally with those organizations that provide guidance. Those of us who have jobs must work to make certain that we remove all vestiges of institutional racism in our workplace, and make sure that all citizens can be the best that they can be.

Publicly funded institutions should be examined. In the area of contract compliance, the city in 1987 did 2.5 percent of their business with minority entrepreneurs, with

a goal of five percent. However, included in this figure are the Omaha Opportunities and Industrialization Center (OIC), the Omaha Housing Foundation, and Omaha Sir, Jobs for Progress, clearly none of these are owned by any minority groups, but in fact are funded at least in part by the city. Watts Trucking, the city trash haulers, is minority owned. If you eliminate the nonentrepreneurial contracts, the figure is probably less than one percent, and mostly accounted for by Watts Trucking.

In my own professional world, no Omaha television station has ever had a black department head. The Omaha World-Herald has never had a minority person above the rank of reporter, and those have not been numerous. Nationally the broadcast industry more than 95 percent of all news directors are white males.

In the banking industry, there are no minority loan officers, except at Community Bank.

It is hypocritical to talk of solutions to drugs and gang violence without taking these steps. If we are not willing to do what is really needed, then we deserve what we get.

LB 84 Property Tax 'Reform'

Continued from page 3

local governments from recapturing such relief with higher spending in other areas.

In conclusion, of all the downsides to LB 84, possibly the most troubling is the confidence that may be lost as a result of this action. The Governor and Legislature are

holding LB 84 up as real property tax relief, but because of its many shortcomings, the taxpayers of Nebraska are likely to conclude that LB 84 is another installment of smoke and mirrors, further harming the State government's tarnished image.



Compact Guarantees 20 Percent Return on Investment

U.S. Ecology Reaps Windfall from Compact Contract

by Skip Laitner

Skip Laitner is a resource economist, consultant and lecturer. He is a partner in the Lincoln-based firm Economic Research Associates and father of three-week old Melissa Laitner.

US Ecology has us where it wants us--with its corporate hands deep in our pocket-books. But you wouldn't know it until you unravel the very fine print in a lengthy and complicated contract.

In this case, I'm talking about the contract between US Ecology and the Central Interstate Low-Level Radioactive Waste Compact. This is the document which will lead to the construction and operation of the five-state radioactive waste facility in Nebraska.

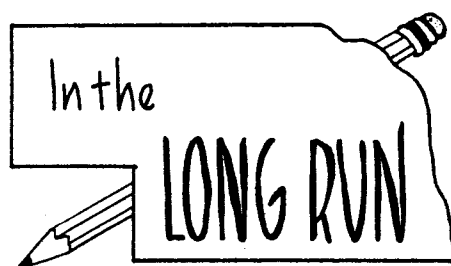
It turns out that the financial terms of the contract are unusually generous to US Ecology. They are written more like a textbook case of monopoly pricing than a competitive price arrangement. The difference may mean millions of dollars in higher costs to store the radwastes.

To start, US Ecology is given a 5-8 percent fee of the annual operating costs. This is fair. The company deserves to be compen-

sated for reasonable management fees beyond normal operating expenses.

But on top of those management fees is a guaranteed 20 percent return on the investment to be made in the proposed facility. To grasp the implication of this return, we need to examine some complicated terms and ground rules as stated in the contract.

First, we need to understand what is



meant by the term "Rate Base." This refers to the net value of all property used in the operation of the radwaste facility. For all practical purposes this in the investment cost of the facility.

Second, we need to define the term "Return on Equity." This is the profit to shareholders who invest in the construction of the facility. The average Return on Equity for all shareholder investments in the United States currently hovers around 13

percent.

Third, there is what the world of finance calls the overall "Rate of Return." This is a weighted average of the cost of borrowing money and the Return on Equity.

If US Ecology borrows half of the needed investment at, say, 10 percent interest, and if it invests its own money with an expected 13 percent Return on Equity for the remaining half, the overall Rate of Return would be 11.5 percent.

Fourth, we need to compare this reasonable 11.5 percent with what the contract specifies as the overall Rate of Return. Buried in the fine print of section six of the contract is the statement that the total earnings awarded the developer "shall be a rate of return of 20% on the rate base."

The difference between the 20 percent figure and the more appropriate 11.5 percent return is a windfall profit for US Ecology.

To see how really generous the provisions of the radwaste contract are, we need to understand a little bit more about the world of finance. The only reason shareholders are generally entitled to returns higher than 13 percent is because they are taking more risks with their investments. A higher risk deserves a larger return.

If the Compact Commission and the developer are to be believed, however, the risks associated with the facility are minimal. And if that is the case, why is the developer being given a 20 percent return on top of the management fees it is to already receive? The 20 percent level is more commensurate with high-risk venture capital than with minimum-risk investments.

To get at the final estimate of the potential profit margins for US Ecology, we need to go a step further and examine the full implications of the contract language.

It appears from various Compact Commission documents that US Ecology will finance about 40 percent of the project with loans and 60 percent with shareholder investments.

If the loans have an average interest rate of 10 percent, and if the overall Rate of Return is guaranteed 20 percent, then a relatively simple math problem shows that the shareholders' Return on Equity may approach 27 percent. This is twice as high as the average nationwide. It kind of makes you wonder, is there a fox in the chicken coop?

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Uranium Firm Asked to Prove U.S. Ownership

by Jeff Tracy

The author, from Scottsbluff, is a staff person for Nebraskans for Peace, Western Region; and for Western Nebraska Resources Council.

In last month's Observer, Environmental Editor Lynn Moorer discussed the uranium mining project's attempts to restore water quality to the underlying aquifer. The following article focuses on foreign ownership.

The international uranium industry's effort to make western Nebraska its newest development area was delayed as a result of the Nebraska Department of Environmental Control's (DEC) public hearing for an Underground Injection Control (UIC) permit. The hearing, held at Fr. Robinson State Park May 11, drew a packed crowd, the majority indicating support for the proposed Crow Butte uranium mining project.

DEC hearing officer Noel DeKalb ruled that the record would be left open for 60 days for additional written evidence and a decision would be made within 45 days after the record was closed. Bill Gidley, DEC Permits and Compliance Section Supervisor, said the department would not make a decision on issuing the UIC permit until the Nebraska Attorney General's office had finished investigating allegations by the citizens' group Western Nebraska Resources Council (WNRC), of wrongdoing by Ferret

Exploration Co. of Nebraska (FEN), the corporation proposing the uranium mining project.

At stake is an industry-estimated 44 million pounds of uranium ore found in the Basal Chadron Aquifer located southeast of Crawford in northwest Nebraska.

WNRC, which requested the hearing, said the DEC should not issue a mining license to FEN until the company can:

- 1) demonstrate its ability to restore the aquifer to its pre-mining water quality;
- 2) prove that it has a radioactive waste disposal facility willing to take the mining waste for the life of the mine, anticipated at 20 years;
- 3) prove an absence of faulting and fracturing--allowing area aquifer contamination--in the Basal Chadron Aquifer; and
- 4) demonstrate that the mining company is not more than 50 percent foreign-owned.

A question about the extent of FEN's foreign ownership arose last fall when WNRC challenged the issuance of a permit to FEN, but new information uncovered by the citizens' group last month forced the issue to the foreground. Nebraska law prohibits ownership of land or leases by a corporation with a board of directors consisting of more than 50 percent aliens (non-U.S. residents) or if more than 50 percent of its capital stock is alien-owned. WNRC has

asked the Attorney General to investigate both of these issues.

FEN attorney Rich Fanyo of Denver said that the company's five-member board of directors consists of four aliens. WNRC attorney Andy Reid of Chadron said records show two are from Canada, one is from West Germany, and one is from South Korea. Ferret Vice President Steve Collings reportedly said that additional board members will be named to resolve the issue.

FEN denied that the majority of its capital stock is owned by aliens. The company said it is a joint venture comprised of Uranerz USA, Inc. (a wholly-owned subsidiary of Uranerzbergbau of West Germany), 25 percent; Korea Electric Power Corporation (a South Korean utility company), 10 percent; and "the Group of Three," consisting of Ferret Exploration Company (Delaware), First Exploration Company (Delaware), and Geomex (a wholly-owned subsidiary of Imperial Metals of Canada), 65 percent.

Fanyo argued that since Geomex and Uranerz USA are subsidiaries doing business in the United States, they qualify as United States companies, thus keeping FEN's ownership under the 50 percent mark.

Reid said case law prohibits a subsidiary from doing what a parent company cannot do. Since Geomex and Uranerz USA are alien-owned, FEN is clearly over the 50

percent mark and violates Nebraska law, he said. The penalty for such a violation is dissolution of the corporation's charter, Reid said, which would prevent business in the state of Nebraska.

Rich Sommer, WNRC president, said the ownership question highlights the fact that almost all uranium ore found in the United States is currently owned by foreign companies. "What little market there is for uranium yellow cake (refined ore ultimately used in nuclear fuel or fuel rods) today and for the immediate future is to be found overseas, not in the United States," said Sommer. "It seems shortsighted for the people of northwest Nebraska to risk contaminating a drinking water aquifer for the economic benefit of a few foreign investors."

Annual Meeting
of the
Central Interstate Low-Level
Radioactive
Waste Compact Commission

June 20, 1989, 9:30 a.m.
Red Lion Inn
1616 Dodge St.
Omaha, Nebraska

Meet Ray Peery in Person.
(See photo, page 4.)